

PT 99-54

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

SPUNKY POINT SENIOR CITIZENS)		
)	A.H. Docket #	98-PT-0060
Applicant)		
)	Docket #	98-34-19
v.)		
)	Parcel Index #	15-09-658-000
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: John A. Wilde, Jr. appeared on behalf of the Spunky Point Senior Citizens.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on March 17, 1999, to determine whether or not Hancock County Parcel Index No. 15-09-658-000 qualified for exemption from real estate taxation for the 1998 assessment year.

Ms. Eulalee Hendricks, former president of the Spunky Point Senior Citizens (hereinafter referred to as the "Applicant"), Ms. Margaret Reuter, treasurer of the applicant, and Ms. Doris Foley, secretary of the applicant were present and testified on behalf of the applicant.

Present on behalf of the Hancock County Board of Review was Ms. Karen Hensley, clerk of the board and Ms. Joni Burling, a member of the board.

The issues in this matter include, first whether the applicant owned the parcel here in issue during the 1998 assessment year; secondly, whether the applicant is a charitable organization; and thirdly whether the applicant used this parcel primarily for charitable purposes during the 1998 assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned this parcel during the entire 1998 assessment year. It is also determined that the applicant is a charitable organization. Finally it is determined that the applicant used Hancock County Parcel Index No. 15-09-658-000 for primarily charitable purposes during the 1998 assessment year.

It is therefore recommended that Hancock County Parcel Index No. 15-09-658-000 be exempt from real estate taxation for the 1998 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption for the 1998 assessment year, was established by the admission in evidence of Department's Exhibits Nos. 1 through 9B.

2. On May 29, 1998, the Hancock County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcel here in issue for the 1998 assessment year. (Dept. Ex. No. 2)

3. On September 3, 1998, the Department advised the applicant that it was denying the exemption of this parcel and the building thereon because this parcel was not in exempt ownership. (Dept. Ex. No. 3)

4. By a letter dated September 8, 1998, Doris A. Foley, secretary of the applicant requested a formal hearing in this matter. (Dept. Ex. No. 4)

5. The hearing in this matter, conducted on March 17, 1999, was held pursuant to that request. (Dept. Ex. No. 8)

6. The applicant was incorporated on August 7, 1973, pursuant to the “General Not For Profit Corporation Act” of Illinois, for the following purpose:

To provide Social Activities for the Senior Citizens in District 316
School District. (Dept. Ex. No. 2B)

7. The applicant acquired Hancock County Parcel Index No. 15-09-658-000 by a warranty deed dated September 30, 1997. The parties referred to Hancock County Parcel Index No. 15-09-658-000 as the Block 83 property because it was located in Block 83 of the original town now city of Warsaw. (Tr. pp. 16 & 17, Dept. Ex. No. 2A)

8. The parties referred to the property formerly owned by the applicant as the Block 37 property because it was located in Block 37 of the original town now city of Warsaw. The applicant had owned the Block 37 property and had been using it for its meetings and other activities. As a result of an increase in membership, the applicant purchased the larger Block 83 property and used it for the same purposes. (Tr. pp. 16, 17, and 18, Dept. Ex. Nos. 2A & 2Q)

9. In view of the fact that the applicant had no further need for its former property located in Block 37, that property was advertised, sold, and conveyed to Ms. Eulalee Hendricks by a warranty deed on March 25, 1998. Ms. Hendricks refers to the Block 37 property as Faith Chapel, and is using it for a nondenominational children’s Sunday school project. (Tr. pp. 16-19, Dept. Ex. No. 2Q)

10. I therefore find that Hancock County Parcel Index No. 15-09-658-000, also known as the Block 83 property, is the parcel here in issue, and was owned by the applicant during the entire 1998 assessment year.

11. Hancock County Parcel Index No. 15-09-638-000 is improved with a building which contains a kitchen, an office, a pantry, a storage room, a large all purpose area, a lounge area, and two restrooms. (Dept. Ex. No 2I)

12. During 1998, the building on the parcel here in issue was used for the monthly meetings of the applicant, meetings of other groups in Warsaw, as a congregate meal location for

senior citizens provided by Meals Plus, and for family reunions, birthday parties, and other private events. (Tr. pp. 25-29)

13. During 1998, the only requirement for membership in the applicant was that a person be 60 years of age. During 1998, the dues to belong to the applicant were \$5.00 per year. The testimony was that dues would be waived or reduced in cases of need, during 1998. (Tr. pp. 23 & 24)

14. People in the area frequently want to hold a family reunion, play cards, or have a birthday party in the building on this parcel. The applicant does not require a group or individual who wants to use the building to sign a written agreement or to pay a fee. The applicant does not require a group or individual wishing to use the building to post a deposit. The applicant does accept donations from groups or individuals who use the building. (Tr. pp. 25 & 48)

15. Meals Plus serves congregate meals to seniors in the building on this parcel. Meals Plus prepares the meals in LaHarpe, Illinois and delivers them to the building on this parcel. Meals Plus also provides home delivered meals in the Warsaw area. Volunteers come to the building on this parcel, pick up meals, and deliver them to shut-ins and the home bound. There is a sign in the congregate meal dining area which states that a meal costs the government \$3.50 and to give what you can. The people eating the congregate meals donate what they can. Approximately 9 or 10 people eat the congregate meals in the building on this parcel on a daily basis. The applicant does not charge a fee to Meals Plus to use this building and Meals Plus does not make a contribution to the applicant. (Tr. pp. 26-31 & 55)

16. Two groups that meet regularly at the building on this parcel are the American Legion Auxiliary, which meets on the third Thursday of each month and the Rock Road Ladies Club, which meets on the second Wednesday of each month. Both of these organizations gave contributions to the applicant for the use of the building. (Tr. pp. 46 & 47, Appl. Ex. No. 6)

17. During 1998, the applicant's primary sources of funds were fundraisers, dues, and contributions. (Dept. Ex. No. 2M & App. Ex. No. 2)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

It should be pointed out that to qualify for an exemption from taxation as a charity, the applicant must demonstrate that there is ownership by a charitable organization and use for charitable purposes. Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763 (4th Dist.

1987); and Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978).

Based upon the findings of fact, I conclude, that the applicant owned Hancock County Parcel Index No. 15-09-658-000, also known as the block 83 property, and the building thereon during the entire 1998 assessment year.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits. In view of the facts that dues are waived in cases of need and that the building is available to anyone who wishes to use it at no cost, I conclude that the benefits derived are available to an indefinite number of persons. In view of these same facts, I conclude that charity is dispensed to all who need and apply for it and that no obstacles are placed in the way of those seeking the benefits. Since the applicant is organized under the “General Not for Profit Corporation Act”, I conclude that the applicant has no capital, capital stock, or shareholders, and does not profit from the enterprise. I also conclude that applicant’s funds are primarily derived from fund-raisers, dues, and contributions and are held in trust for the purposes expressed in its charter. Consequently, I conclude that the applicant is a charitable organization.

In view of the facts that the applicant waives and reduces dues in cases of need and makes the building available for use for a contribution, I conclude that this parcel was used for charitable purposes. It should also be pointed out that the applicant provides at no cost a place for Meals Plus to operate its home delivered meals program as well as providing a congregate meal site for the community. The congregate meal program is provided by Meals Plus to

persons for a contribution. I therefore conclude that this parcel and the building thereon were primarily used for charitable purposes during 1998.

I therefore recommend that Hancock County Parcel Index No. 15-09-658-000 be exempt from real estate taxation for the 1998 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
August 10, 1999